



**California
First-Year
Law Students'
Examination**

Essay Questions

October 28, 2003

ESSAY EXAMINATION INSTRUCTIONS

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

Question 1

Rita is beginning a new business as a painter. In order to attract clients, she printed hundreds of flyers that said, "Rita can paint your home for \$2,000—Call Rita now to accept this offer!" Each flyer also contained contact information for Rita, including her telephone number. Rita placed the flyers in the local grocery store where neighborhood residents would be likely to see them.

Marvin picked up a flyer and decided to call Rita. He owned a very large home in an adjoining town. Marvin knew that \$2,000 for painting his home would be a tremendous bargain for him. He telephoned Rita, and when she answered the phone, Marvin said, "I accept your offer to paint my home for \$2,000. Please start as soon as possible." Before Rita could say a word, Marvin blurted out his home address and abruptly hung up.

Sue also telephoned Rita and asked about having her garage painted. Rita informed Sue that she would have to come to Sue's home before providing a bid, and the two got together at Sue's home later that day. After looking over the garage and negotiating the particulars of the paint job, Rita told Sue that she would paint the garage for \$700. Sue responded that \$700 was a "pretty good price," but that she wished Rita would do the job for less and needed to consider her options. The following morning, Sue left a phone message on Rita's answering machine saying that she had decided to accept Rita's offer.

Rita also received a recorded phone message from Mary, another possible new client, stating, "I saw your flyer in the grocery store. If you can paint my house for \$2,000, the job is yours." The message provided Mary's address. After Rita drove past Mary's house to look at the prospective job, she decided to paint Mary's house. The next day Rita went to Mary's home, with all the necessary painting supplies, but when she started working on Mary's home, Mary came running outside and told Rita to stop painting the house, as she had found a different painting contractor for the job.

Does Rita have enforceable contracts with either Marvin, Sue, or Mary? Discuss.

Question 2

Able was low on money and short on credit, so he borrowed money from a loan shark who was associated with organized crime. When Able failed to meet the repayment deadline, the loan shark told Able he had one more day to come up with the money or Able would find it “very, very painful.”

Frightened and desperate, Able decided to break into the home of Rich and steal a collection of valuable antique coins. (Able had done some carpentry jobs for Rich on occasion, so he was familiar with his home.) Able knew that the coin collection was kept in a safe in a small room in Rich’s home, so he asked Baker to help him with the heist. Baker was a master welder and Able knew Baker’s skills would come in handy if they were to steal the coins. Baker agreed and brought a blowtorch with him that night. Able and Baker easily gained entry to the house by cutting a hole in the back door and entered through the hole. They quickly disabled the alarm system and then Baker went to work on the safe with his blowtorch. They had nearly gotten the safe open when Able knocked over the blowtorch. It ignited some curtains nearby and the fire quickly spread. Soon the whole structure was ablaze. Able and Baker fled without having taken anything.

Sam and Carol lived next door to Rich and the fire soon jumped from Rich’s home to their residence. Carol woke up, smelled the smoke, and ran into the living room. Her husband, Sam, was sleeping on the couch. Carol was very angry with Sam. He had told her earlier that evening that he wanted a divorce and Carol now saw a chance for revenge. Carol ran from the burning house, leaving him asleep on the couch. By the time Sam awoke, the house was full of flames and heavy dark smoke. He tried to exit the house, but was quickly overcome by the fire and died.

What crimes, if any, have been committed by Able, Baker, and Carol, and what defenses should each assert? Discuss.

Question 3

Paintco intended to place a bid on the painting work for a large government project, the deadline for which was April 16. Paintco's president published an advertisement in a local trade paper asking paint suppliers to place bids with Paintco for the furnishing of 10,000 gallons of special paint in accordance with the government's specifications. The advertisement, published March 1, stated that Paintco was going to bid on the government job, and asked all interested parties to submit their bids, in writing, on or before April 15, specifying that the bids were to be "irrevocable for 30 days."

On the evening of April 15, Ritzcorp's president telephoned Paintco and submitted Ritzcorp's bid orally by leaving a message on Paintco's answering machine, which was equipped with a voice-decoding feature that translated telephone messages into a written printout. The telephone message, which Paintco's president both heard and read that evening, identified the speaker as Ritzcorp's president and stated that his company would supply 8,500 gallons of paint to Paintco at a price of \$10 per gallon. The telephone message also stated that the bid price did not include the cost of delivery, that any acceptance of Ritzcorp's bid must be in writing and must be received by Ritzcorp on or before May 1.

Because Ritzcorp's bid was the lowest, Paintco used it to compute the price of its own irrevocable bid to the government the next day. On May 1, Paintco was notified that it had won the government contract. The same day it mailed a letter to Ritzcorp stating: "We accept your offer of April 15, but ask that the paint be fully warranted as to quality and that you arrange for delivery of 10,000 gallons of the paint to the job site." The letter arrived at Ritzcorp's offices on May 2. Ritzcorp dispatched an e-mail to Paintco that very afternoon, stating that in light of an unexpected rise in the cost of ingredients it was only prepared to offer a price per gallon of \$12, and that any paint Paintco chose to purchase would be sold "as is," without any warranties. After subsequent talks between the parties failed to resolve their differences, Paintco promptly secured a commitment from the next lowest bidder, BrushCorp, to supply all 10,000 gallons at a price of \$14 per gallon. Paintco then immediately wrote a letter to Ritzcorp declaring that Ritzcorp had repudiated its contractual commitment to supply paint, and threatening to hold it accountable for all damages. Paintco completed the government job using the paint supplied by BrushCorp.

What action(s) can Paintco reasonably assert against Ritzcorp, and what would be the likely result of these action(s)? Discuss.

Question 4

Peter, walking along the street at 10:00 p.m. on April 20, urgently needed to find a restroom. Just ahead was Dell's Supper Club ("Dell's"), which Peter had patronized a few times in the past. There was a sign on the door of Dell's that said "Restrooms for Patrons Only." He was not familiar with Dell's restroom. He entered the dimly lit club and was directed by a waitress toward a door marked "MEN". Peter opened this door and stepped into an even darker room. Just inside the door, Peter felt for and pushed a light switch, but no light came on because the bulb in the ceiling fixture was burned out. Nevertheless, Peter walked towards what he thought was the toilet, but tripped over a step, fell, and suffered severe cuts and bruises.

Later that night at Dell's John ordered a steak with mushrooms. Dell's used canned mushrooms purchased from Acme Foods, which three weeks earlier had discovered that some of its canned mushrooms had been improperly prepared and if eaten could cause botulism. Acme Foods notified all its customers of the problems with the canned mushrooms and offered to replace any cans of mushrooms purchased from them. Dell's received this notice, but disregarded it. John was served some of the mushrooms in question and as a result contracted botulism, recovering only after five days of severe illness and hospital treatment.

At 6:00 a.m. the next morning Carl, who was paid to pick up the garbage at Dell's, drove to the back of the club to carry out his duties. He did not see Dell's large guard dog chained next to the bin to keep out trespassers, and the dog was asleep when Carl entered the bin. As Carl walked to the bin, he startled the dog and it attacked Carl. The dog grabbed Carl's shoe and held on tightly. Carl managed to get his foot out of the shoe, ran to the fence surrounding the back of the restaurant, and climbed over it to get away from the dog. Once he reached the top of the fence, he fell to the ground on the other side and broke his leg.

What actions could Peter, John and Carl assert against Dell's, what defenses should Dell's assert, and what would be the probable results? Discuss.